



Office of the Attorney General

State of Texas

August 10, 1992

DAN MORALES
ATTORNEY GENERAL

Mr. George A. Tejadilla
Escamilla, Poneck & Perez
310 S. St. Mary's, Suite 2201
San Antonio, Texas 78205

OR92-464

Dear Mr. Tejadilla:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16548.

The South San Antonio Independent School District (the "school district"), which you represent, has received three requests for information relating to the salary and absence records of two school district employees and for information on personnel hired. Specifically, the requestor seeks information that reflects any payroll deductions made because of absences and the total salary paid each employee. In addition, the requestor seeks the identities of all personnel hired by the school district in June, July, and August of 1991.¹ You have submitted to us for review representative payroll records and school district employee absence records. However, you have not submitted to us for review, nor do you comment on, information that reflects the identity of personnel hired in June, July, and August of 1991. We presume therefore that such information has been or will be made available to the requestor. See Open Records Decision No. 363 (1983). You claim that the payroll and absence records are excepted from required public disclosure by sections 3(a)(1) and 3(a)(2) of the Open Records Act.

Section 3(a)(1) excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." Information may be withheld from required public disclosure under common-law privacy if it meets the criteria that the Texas Supreme Court articulated in *Industrial*

¹We have communicated with the requestor in order to clarify the intent of his request, which was initially unclear to us. Accordingly, the nature of his request as represented here and as represented in your request for a determination may differ.

Foundation of the South v. Texas Industrial Accident Board, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Under *Industrial Foundation*, information may be withheld on common-law privacy grounds only if it is highly intimate or embarrassing and is of no legitimate concern to the public. Section 3(a)(2) protects personnel file information only if its release would cause an invasion of privacy under the test articulated for common-law privacy under section 3(a)(1). *Hubert v. Harte-Hanks Texas Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.); *see also* Open Records Decision No. 441 (1986). Section 6(2) of the Open Records Act makes public "the names, sex, ethnicity, salaries, title, and dates of employment of all employees and officers of governmental bodies." Open Records Decision No. 557 (1990).

You have submitted to us for review representative samples of the two employees' "Payroll Journal and Deduction Register" records. These records reflect all employee pay information, including each employee's total salary and deductions for absences. The absence records reflect, *inter alia*, the dates and reasons for each employee's absences. We conclude that the total salary and absence deduction information contained on the "Payroll Journal and Deduction Register" records is not intimate or embarrassing. Accordingly, this information must be released to the requestor immediately. Because the remainder of the information on the "Payroll Journal and Deduction Register" records is not responsive to the request, it need not be disclosed. With respect to the absence records, they too, contain no information that is intimate or embarrassing and must be released in their entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-464.

Yours very truly,



Celeste A. Baker
Assistant Attorney General
Opinion Committee

CAB/GCK/lmm

Ref.: ID# 16548

cc: Mr. J. Luis Rojas
5315 Rio Hato
San Antonio, Texas 78233